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The normativity of nature in Pufendorf and Locke

Hannah Dawson¹

I

At the beginning of one of the centrepieces of early-modern natural law theory, *De Jure Naturae et Gentium* (1672), Samuel von Pufendorf presented a complete break between nature and morality. He envisaged a landscape of bodies in motion on which artificial moral entities are superimposed.² He was followed down this arid path by his great admirer, John Locke, in *An Essay concerning Humane Understanding* (1689). Locke reprised Pufendorf's starkly bifurcated vision of real existence on the one hand, and moral ideas – pure fabrications of the mind – on the other.³ In a world that was being variously deanimated by the so-called scientific revolution, Pufendorf and Locke joined in, emptying nature of its Aristotelian substantial forms, and reducing it to the push and pull of one huge, corpuscularian machine. Disenchanted matter could not be responsible for its own activity. Indeed, it could not *act* at all. Only men (and it usually was only 'men'), through liberty and rationality, could haul themselves out of the necessary and unreflective mire of nature, and become moral agents. Morality, on this view, was not only radically distinct from nature, but its purpose was to suppress and subdue it. Accordingly, nature, on this view, was not only amoral, but veered towards immorality, too. Pufendorf and Locke, therefore, leading lights in the European republic of letters, seem to figure morality as a curb on nature, and to point to a gulf between nature and normativity, between what we are and what we ought to be.

¹ This article began life as the inaugural Balzan-Skinner Lecture that I delivered at the University of Cambridge. A long time has since elapsed, mainly because of motherhood and its complications, but also because I have tried to develop my argument in response to the brilliant comments I received on that happy day. I am indebted to Quentin Skinner, who endowed the Balzan-Skinner Prize in a characteristic act of generosity to the historical profession, and to both the International Balzan Prize Foundation and CRASSH for their indispensable support. I am grateful to Annabel Brett, Chris Brooke, Mark Goldie, Lena Halldenius, James Harris, Clare Jackson, Susan James, John Robertson, Richard Serjeantson, and the anonymous reviewers of this article, all of whom have given me hugely helpful feedback.

² Samuel von Pufendorf, *Of the Law of Nature and Nations*, trans. Basil Kennet (Oxford, 1703), pp. 1–3. I use the first edition of Kennet's translation to get closest to an early-modern English reading of Pufendorf's text. I have compared it to the Latin, which Locke owned, in part to indicate relevant departures from the original, but also because sometimes the Latin speaks especially powerfully to my argument, as well as pointing to Locke's immersion in the Latin text. More generally, I have flagged up the (sometimes Latin) intertextuality between sources, suggesting that the two views I delineate in this article are *langues* as much as *paroles*.

³ John Locke, *An Essay concerning Human Understanding*, ed. Peter H. Nidditch (Oxford, 1975), p. 429.

I argue, however, that at times they bridge this gulf, that in addition to their principal account of morality, Pufendorf and Locke give voice to an alternative view. Perhaps struggling with the reality that people are not as free or rational as morality had seemed to require, and unwilling in the end to relinquish the old idea of nature as teleological, and the source of the good, they beat back across their own clear blue water. They suggest that we are more like nature's brutes than fantasy's humans, worked on inertly, irresistibly, by the levers of passion and impulse, that the cogs and wheels of nature might turn us toward virtue. Moral action and understanding turns out to be as much the result of automatic sensation as circuitous reason, as much uncalculated instinct as clear-sighted autonomy. This re-visioning of normativity has implications not only for our understanding early-modern moral philosophy, but also for the history of political thought. In particular, it takes us some way to resolving one of the great paradoxes of Locke's political theory, as I will suggest at the end of this article.

In constructing the argument outlined above, I am making three interventions in the scholarship. The prevailing view of Pufendorf's and Locke's moral theories, and indeed of much of seventeenth-century moral theory is – quite rightly – that morality tended to be understood as a law imposed on otherwise recalcitrant human nature, deduced and enacted with reason and freedom.⁴ I am adding a kind of naturalism to that view, and, in so doing, I am questioning the characterisation and valorisation of autonomous reason that remains associated with post-Cartesian thought, and still underpins the discipline of analytic philosophy. I am therefore pitching into revisionist commentary that has at least in part been energised by the feminist turn in historiography, to argue that for seventeenth-century authors, reason, understood as the self-directed analysis of clear and distinct ideas, does not capture all

⁴ E.g. Knud Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment* (Cambridge, 1996), p. 6; Christine M. Korsgaard, *The Sources of Normativity* (Cambridge, 1996), pp. 4-5; J.B. Schneewind, *The Invention of Autonomy: A History of Modern Moral Philosophy* (Cambridge, 1998), p. 4. On Pufendorf, see, e.g., Pauline C. Westerman, *The Disintegration of Natural Law Theory: Aquinas to Finnis* (Leiden, 1998), p. 288. On the centrality of reason and freedom in Locke, see, e.g., Ian Harris, *The mind of John Locke: A study of political theory in its intellectual setting* (Cambridge, 1998), pp. 252-79; Gideon Yaffe, *Liberty Worth the Name: Locke on Free Agency* (Princeton, 2000); Alex Tuckness, *Locke and the Legislative Point of View: Toleration, Contested Principles, and the Law* (Princeton, 2002); Jeremy Waldron, *God, Locke, and Equality: Christian Foundations of John Locke's Political Thought* (Cambridge, 2002). Cf. Jill Kraye, 'Conceptions of Moral Philosophy', in Daniel Garber and Michael Ayers, eds., *The Cambridge History of Seventeenth-Century Philosophy* (2 vols., Cambridge, 1998), II, pp. 1279-1316, p. 1307. Some commentators, e.g., Steven Forde, *Locke, Science and Politics* (Cambridge, 2013), p. 12, still hive Locke off from theology; for a rebuttal, see Tim Stanton's own Balzan-Skinner lecture, 'John Locke and the fable of liberalism', *Historical Journal* 61 (2018), pp. 597-622.

that it means to be thoughtful, and by the same token that reason is capacious, encompassing or at least companionable with imagination, intuition, and passion – the ‘buzzing confusion of consciousness’, as Genevieve Lloyd puts it.⁵

My second intervention is to propose not only that we go beyond thinking of early-modern morality simply as a law external to mankind, but also that we need not tie ourselves in knots over the basis of that law. Much of the commentary on seventeenth-century natural law focuses on where particular authors stood in the scholastic dispute between rationalists and voluntarists – between those, following Aquinas, who thought that morality is a function of reason, and those, following Ockham, who thought that it is a function of God’s will.⁶ This preoccupation makes sense, of course, and intersects closely with the contradiction I am exploring in this article (is morality imposed on and against our nature, or is it part of it?).⁷ I want to suggest, however, that the old conundrum of how God might be omnipotent *and* bound is not the whole story. Indeed, it seems to me that so much of the commentary on Locke in particular gets itself into such contortions over this problem precisely because it was not Locke’s primary concern to find a solution, if indeed he saw it as a problem at all.⁸ Insofar as Pufendorf and Locke were interested, and insofar as it helps to categorise them within this framework, they were, to quote James Tully, ‘mitigated

⁵ Genevieve Lloyd, ‘The Man of Reason’, *Metaphilosophy*, 10 (1979), pp. 18–37, p. 32 (talking here about Leibniz). Cf. Idem, *The Man of Reason: ‘Male’ & ‘Female’ in Western Philosophy* (York, 1984); Susan James, *Passion and Action: The Emotions in Seventeenth-Century Philosophy* (Oxford, 1997); Victoria Kahn, Neil Saccamano, and Daniela Coli, eds., *Politics and the Passions 1500–1850* (Princeton, 2006). See also Albert O. Hirschman, *The Passions and the Interests* (Princeton, 1977). On the tenacity of the reason/passion divide, see, e.g., Terence Cuneo, ‘Reason and the passions’, in James A. Harris, ed., *The Oxford Handbook of British Philosophy in the Eighteenth Century* (Oxford, 2013), pp. 226–47.

⁶ See Haakonssen, *Natural Law*, p. 6; Petter Korkman, ‘Voluntarism and Moral Obligation: Barbeyrac’s Defence of Pufendorf Revisited’, in Tim Hochstrasser and Peter Schröder, eds., *Early Modern Natural Law Theories* (Dordrecht, 2003), pp. 195–225.

⁷ See Peter Harrison, ‘Voluntarism and Early Modern Science’, *History of Science*, 40 (2002), pp. 63–89; Idem, *The Territories of Science and Religion* (Chicago, 2015); John Henry, ‘Voluntarist theology at the origins of Modern Science: A Response to Peter Harrison’, *History of Science*, 47 (2009), pp. 79–113.

⁸ On the long-standing endeavour to pin down Locke’s position, see Raghuveer Singh, ‘John Locke and the theory of natural law’, *Political Studies*, IX (1961), pp. 105–18; John Colman, *John Locke’s Moral Philosophy* (Edinburgh, 1983); David E. Soles, ‘Intellectualism and Natural Law in Locke’s *Second Treatise*’, *History of Political Thought* 8 (1) (1987), pp. 63–81; W. Randall Ward, ‘Divine Will, Natural Law and the voluntarism/intellectualism debate in Locke’, *History of Political Thought* 16 (1995), pp. 208–18; Francis Oakley, ‘Locke, natural law and God – again’, *History of Political Thought* 18 (1997), pp. 624–51; Alex Tuckness, ‘The Coherence of a Mind: John Locke and the Law of Nature’, *Journal of the History of Philosophy*, 37 (1999), pp. 73–90; John Colman, ‘Locke’s empiricist theory of the law of nature’, in Peter R. Anstey, ed., *The Philosophy of John Locke: New Perspectives* (London, 2003), pp. 106–26. For a dazzling challenge to the voluntarist/realist taxonomy, as well as insights into nature and liberty, see Annabel S. Brett, *Liberty, right and nature: Individual rights in later scholastic thought* (Cambridge, 1997).

voluntarists'.⁹ That is, insofar as they viewed morality as a law imposed on mankind by God, they thought that it followed necessarily from the creature God had freely created and to whom he had given reason to infer. This is after all why they called it *natural* law, because it could be worked out by natural reason, as opposed to revelation. I want to show that in addition to treating morality as an external constraint on nature, these writers looked to nature herself – and irrational, even involuntary nature at that, as a source of normativity – which, in turn, further queries the primacy of the axis of reason and will on which the rationalist/voluntarist debate pivots.

My third intervention follows from this. It concerns the appropriate contexts in which to situate Pufendorf and Locke, and, connectedly, the question of continuity and change in natural law discourse and where these authors sit in that particular narrative. Scholars often point to a change that occurred at the beginning of the seventeenth century, when Grotius ushered in the 'modern' theory of natural law, grounded on self-interest, as a response to scepticism.¹⁰ Rather than focusing on scepticism, I join other scholars in emphasising the importance of two further contexts in early modernity that, in turn, point to endurances and debts rather than sharp breaks.

The first context is scholastic natural jurisprudence. Rather than the voluntarist/rationalist controversy therein, what seems to press especially hard on both authors is the stringent account of virtue – a virtue that must be freely and knowingly chosen, and chosen for its own sake, a virtue that can have nothing to do with stupid, or knee-jerk, or selfish, nature. It is this high bar for the good that appears in Pufendorf's and Locke's principal accounts of morality, and that had already been set,

⁹ James Tully, *An approach to political philosophy: Locke in contexts* (Cambridge, 1993), p. 281. Cf. Pufendorf, *On the Duty of Man and Citizen According to Natural Law*, ed. James Tully, trans. Michael Silverthorne (Cambridge, 1991), p. 36; Locke, *Essays on the Law of Nature*, ed. W. von Leyden (Oxford, 1954), p. 199.

¹⁰ Richard Tuck, *Philosophy and government 1572-1651* (Cambridge, 1993); cf. Haakonssen, *Natural Law*, pp. 24-6. See also Charles Larmore, 'Scepticism', in Garber and Ayers, eds., *Cambridge History II*, pp. 1145-92; Jonathan Israel, *Radical Enlightenment* (Oxford, 2002); Richard Popkin, *The History of Scepticism: From Savonarola to Bayle* (Oxford, 2003). For complicating accounts, pointing instead and overlappingly to Aristotelian scholasticism (and, in Brett's case, Stoicism), see Johann P. Sommerville, 'Selden, Grotius, and the Seventeenth-Century Intellectual Revolution in Moral and Political Theory', in Victoria Kahn and Lorna Hutson, eds., *Rhetoric & Law in Early Modern Europe* (New Haven, 2001), pp. 319-44; Annabel Brett, 'Natural Right and Civil Community: The Civil Philosophy of Hugo Grotius', *Historical Journal*, 45 (2002), pp. 31-51; Idem 'The Matter, Forme, and Power of a Common-wealth': Thomas Hobbes and Late Renaissance Commentary on Aristotle's *Politics*, *Hobbes Studies*, 23 (2010), pp. 72-102; Cees Leijenhorst, *The Mechanization of Aristotelianism: The Late Aristotelian Setting of Thomas Hobbes' Natural Philosophy* (Leiden, 2001).

for example, in the most important Jesuit scholastic text of the period, Francisco Suárez's *De Legibus, ac Deo Legislatore* (1612).

The second context that I flag up is Stoicism, the importance of which for Pufendorf and, especially, Locke, is less well appreciated.¹¹ Stoicism had many strands, which were themselves interwoven with strands from other schools, and often twisted out of recognition in the complex, active early-modern reception of antiquity, such that one sometimes wonders whether it makes sense to talk about schools of thought at all. There is, for example, one Stoic strand that calls you to act according to reason, willingly, not heaved this way or that by fate or passion, and intertwines with the stern scholastic injunctions that run through Pufendorf's and Locke's own stern accounts of morality. There is, though, another Stoic strand, that seems to me to lace along the softer, alternative, naturalistic, iteration of morality that I identify in these authors. For the Stoics, to live according to virtue is, by definition, to live according to nature. Indeed, as Diogenes Laertius put it, paraphrasing Zeno, in his compendium of the lives of Greek philosophers (of which Locke owned two copies), 'nature leads us towards virtue'.¹² Again, this tight connection between nature and virtue is not peculiar to Stoicism; it resonates in scholasticism, and indeed pervaded most ancient

¹¹ In his Introduction (pp. 1-92) to Locke's *Essays*, von Leyden ignores Stoicism as a source, and (p. 35) dismisses Cicero as insignificant. See also Daniel Carey, *Locke, Shaftesbury, and Hutcheson: Contesting Diversity in the Enlightenment and Beyond* (Cambridge, 2006), pp. 34-68. Commentators are, however, gathering to highlight the importance of Stoicism for early-modern thought, including, now, for Locke; see, e.g., M.A. Stewart, 'The Stoic legacy in the early Scottish Enlightenment', in Margaret J. Osler, ed., *Atoms, Pneuma, and Tranquility: Epicurean and Stoic Themes in European Thought* (Cambridge, 1991), pp. 2743-96; Jon Parkin, *Science Religion, and Politics in Restoration England: Richard Cumberland's De legibus naturae* (Woodbridge, 1999); A.A. Long, 'Stoicism in the Philosophical Tradition: Spinoza, Lipsius, Butler', in Jon Millar and Brad Inwood, eds., *Hellenistic and early-modern philosophy* (Cambridge, 2003), pp. 7-29; H.W. Blom and Laurens C. Winkel, eds., *Grotius and the Stoa* (Assen, 2004); Victor Nuovo, 'Aspects of Stoicism in Locke's Philosophy' in *Christianity, Antiquity, and Enlightenment* (Dordrecht, 2011), pp. 181-205; Christopher Brooke, *Philosophic Pride: Stoicism and Political Thought from Lipsius to Rousseau* (Princeton, 2012). On Pufendorf's Stoicism, see M. J. Seidler, 'Introductory Essay', in Idem, ed., *Samuel Pufendorf's "On the Natural State of Men"* (Lewiston, 1990), pp. 1-69, p. 49; Kari Saastamoinen, 'Pufendorf and the Stoic Model of Natural Law', *Grotiana* 22 (2001), pp. 257-69; Fiammetta Palladini, 'Pufendorf and Stoicism', *Grotiana* (2002), pp. 245-55; Jon Parkin, 'Taming the Leviathan: Reading Hobbes in Seventeenth-Century Europe', in Hochstrasser and Schröder, eds., *Early Modern Natural Law*, pp. 31-52, p. 45. There are further overlapping intellectual contexts, some of which I touch on in the article, such as Epicureanism and Augustinianism, on the conjunction of which see John Robertson, *The Case for The Enlightenment: Scotland and Naples 1680-1760* (Cambridge, 2005); see also Neven Leddy and Avi Lifschitz, eds., *Epicurus in the Enlightenment* (Oxford, 2009). For a ground-breaking account of English attitudes to ancient philosophy, see Dmitri Levitin, *Ancient Wisdom in the Age of the New Science: Histories of Philosophy in England, c. 1640-1700* (Cambridge, 2015).

¹² A. A. Long and D. N. Sedley, eds., *The Hellenistic philosophers* (2 vols., Cambridge, 1987), I, p. 395; John Harrison and Peter Laslett, *The Library of John Locke* (Oxford, 1965), p. 124. See Gisela Striker, *Essays on Hellenistic Epistemology and Ethics* (Cambridge, 1996), pp. 209-97.

thought until Augustine took it so devastatingly to task.¹³ But while this chorus is certainly ringing in the ears of Pufendorf and Locke, it is in my view the sense-based, naturalistic tune within Stoicism, merging with the new experimental philosophy that gives our authors one of their distinctive melodies. Moreover, looking forward as well as back, by refiguring Pufendorf and Locke in a (Stoic) naturalistic tradition, I propose that we continue to rethink the caesura still tenacious in the history of philosophy between the voluntarist natural jurists of the seventeenth century and the theorists of moral sentiment of the next.¹⁴

It might be objected that the contradiction to which this article draws attention – that virtue seems sometimes to coincide with, and sometimes to oppose, nature – can be explained away when one considers the manifold and shifting uses of the concept of nature. Nature, after all, in the Stoic use might often be synonymous with Reason. And more generally in early-modern thought, nature teetered on the line between divinity and brutishness, and, overlappingly, on the brink of mind and matter. As two seventeenth-century dictionaries put the ambiguity in their respective definitions of nature: ‘God, or devine reason sowen in all the world’ on the one hand,

¹³ See Malcolm Scholfield and Gisela Striker, eds., *The Norms of Nature: Studies in Hellenistic Ethics* (Cambridge, 1986). On Stoic epistemology and morality, see R.W. Sharples, *Stoics, Epicureans and Sceptics: An Introduction to Hellenistic Philosophy* (London, 1996), pp. 20-23; 123-5.

¹⁴ See Amy M. Schmitter, ‘Passions and affections’, in Peter Anstey, ed., *The Oxford Handbook of British Philosophy in The Seventeenth Century* (Oxford, 2013), pp. 442-71; James A. Harris, *Hume: An Intellectual Biography* (Cambridge, 2015), pp. 126-30; Henning Graf Reventlow, ‘Morality, reason and history as factors in biblical interpretation’, in Euan Cameron, ed., *The Cambridge History of The Bible From 1450-1750* (Cambridge, 2016), pp. 641-56, p. 653. On the history of natural jurisprudence, see: Duncan Forbes, ‘Natural Law and the Scottish Enlightenment’, in R.H. Campbell and A.S. Skinner, eds., *The Origins and Nature of the Scottish Enlightenment* (Edinburgh, 1982), pp. 186-204; John Dunn, ‘From applied theology to social analysis: the break between John Locke and the Scottish Enlightenment’, in Istvan Hont and Michael Ignatieff, eds., *Wealth & Virtue: The Shaping of Political Economy in the Scottish Enlightenment* (Cambridge, 1983), pp. 119-35; Istvan Hont and Michael Ignatieff, ‘Needs and justice in the ‘Wealth of Nations’, in *Wealth & Virtue*, pp. 1-44; Knud Haakonssen, *Natural Law*; Richard Tuck, ‘The ‘modern’ theory of natural law’, in Anthony Pagden, ed., *The Languages of Political Theory in Early-Modern Europe* (Cambridge, 1987), pp. 99-120; Istvan Hont, ‘The Language of Sociability and Commerce: Samuel Pufendorf and the Theoretical Foundations of the ‘Four-Stages’ Theory’, in Pagden, ed., *Languages of Political Theory*, pp. 253-76; M. J. Seidler, ‘Introductory Essay’, in Seidler, ed. and trans., *Samuel Pufendorf’s “On the Natural State of Men”* (Lewiston, 1990), pp. 1-69; Stephen Buckle, *Natural Law and the Theory of Property: Grotius to Hume* (Oxford, 1991); Stephen Darwall, *The British Moralists and the Internal Ought: 1640-1740* (Cambridge, 1995); Idem, ‘Norm and Normativity’, in Knud Haakonssen, ed., *The Cambridge History of Eighteenth-Century Philosophy* (Cambridge, 2006), pp. 987-1025; J. B. Schneewind, *The Invention of Autonomy* (Cambridge 1998); T.J. Hochstrasser, *Natural Law Theories in the Early Enlightenment* (Cambridge, 2000); Annabel S. Brett, ‘The development of the idea of citizens’ rights’, in Quentin Skinner and Bo Stråth, eds., *States and Citizens: History, Theory, Prospects* (Cambridge, 2003), pp. 97-112; Annabel S. Brett, *Changes of State: Nature and the limits of the city in early modern natural law* (Princeton, 2011); Hochstrasser and Schröder, *Early Modern Natural Law*; Ian Hunter, *Rival Enlightenments: Civil and Metaphysical Philosophy in Early Modern Germany* (Cambridge, 2009); Sarah Hutton, ‘From Cudworth to Hume: Cambridge Platonism and the Scottish Enlightenment’, *Canadian Journal of Philosophy*, 42 (2012), 8-26; Jon Parkin and Tim Stanton, eds., *Natural law and*

and on the other, ‘the innate Principle of Motion and Rest, depending upon a necessary Series of Causes’.¹⁵ It is clear that nature might well line up with morality when the reasonable, theistic, signification is in use, and not when it is abridged to mechanistic necessity, or to nature red in tooth and claw. And, certainly, Pufendorf and Locke often fall into step along exactly these lines, giving voice to sacred, rational nature. For example, while Locke does not identify God and nature, as Spinoza does, God’s providence permeates every leaf and eye of Locke’s vision of the world. As he announces in the *Essay*, ‘the Wisdom and Goodness of the Maker plainly appears in all the Parts of this stupendous Frabrick’.¹⁶ God’s divine design is so omnipresent that God and nature often act as near-synonyms for Locke, such as when he is explaining how the senses are ‘wisely ordered by Nature’, or how ‘nature or God (as I should say more correctly)’ could have ‘created man differently’.¹⁷ Locke’s and Pufendorf’s uses of the word ‘nature’ are deeply unstable, just as in contemporary usage more broadly – and this is my point. Sliding in their uses, for example, between providence, Aristotelian teleology, postlapsarian depravity, neutral matter, and a deanimated machine, they thereby inhabit, magnify, and reorganise early-modern moral discourse. As well as exposing the tensions within that discourse, they fuse and rethink the binaries they inherit, suggesting that there is life and purpose in the machine, that the brute forces of nature might, with God’s blessing, push us to at least the appearance of virtue.

Interesting in itself, this ambivalence also raises an important question about what moral agency looks like here. It is not obvious, that is to say, that pushed in this mechanical, brutish, unthinking way, human animals can count as truly moral agents. Indeed, that is the thrust of Pufendorf’s and Locke’s original position: if we do not know what we ought to do, and do not knowingly, freely decide what to do, then we cannot be justly rewarded or punished for our actions. While their naturalistic tendencies do sometimes catch them in this snare, however, I suggest that they also point to a rich and holistic view of virtue and cognition, one that incorporates the spontaneous springs of the mind, so that even if we do not forge our lives in a blaze of

toleration in the early enlightenment (Oxford, 2013); John Robertson, ‘Sacred History and Political Thought: Neapolitan Responses to the Problem of Sociability after Hobbes’, *Historical Journal*, 56 (2013), pp. 1-29.

¹⁵ John Florio, *Queen Anna’s New World of Words, or dictionarie of the Italian and English tongues* (London, 1611), p. 329; Edward Phillips, *The New World of Words* (London, 1696), sig. Bbbb3^v.

¹⁶ Locke, *Essay*, p. 148.

¹⁷ Locke, *Essay*, p. 150; *Essays*, p. 199.

reason and liberty, we might nonetheless be deemed morally engaged and accountable, capable of doing the right thing.

This article will begin by laying out Pufendorf's and Locke's accounts of the divide between nature and morality, and then demonstrate the ways in which both authors cross the divide.

Before I embark, I should say why I have chosen to focus on them in tandem. In part, it is because Locke admired Pufendorf's natural law theory, and there is therefore a connection between the two authors. More significantly still, I focus on these two because of the parallel between their striking, riven, metaphysics: Pufendorf's extraordinary vision of a world cracked in two – morality on the one side, nature on the other – with which he opens his *De Jure*, that then recurs so powerfully throughout Locke's *Essay*. Looking at Locke through Pufendorf therefore not only shines a peculiarly bright light on the Englishman's moral metaphysics, but they illuminate each other. Moreover, this is not just an article about the mark that Pufendorf made on Locke, but an article about Pufendorf, too. After all, Locke diverges from Pufendorf in radical ways, most obviously in Pufendorf's permission of absolute sovereignty by contrast with Locke's condemnation of it as a form of slavery. Locke's own views also change over time, and he is receptive to a great many other influences – indeed as mentioned above, some of these, such as Suárez, loom large over both Pufendorf and Locke.¹⁸ Besides, Locke only acquired Pufendorf's *De Jure* and *De Officio* (1673) in the late 1670s and was reading the former in 1681 – many years after he (in c. 1664) had written his most explicitly Stoic work, his *Essays on the Law of Nature* (although Pufendorf's *Elementorum Jurisprudentiae Universalis* was published in 1660). In addition to mooted lines of influence, therefore, I am uncovering common ground between these two big beasts of seventeenth-century natural law theory, and in doing so, gesturing towards a hitherto underappreciated discourse of early-modern moral philosophy: the normativity of nature.

¹⁸ On Locke's engagement with Pufendorf, see Harrison and Laslett, *The Library*, p. 215; Locke, 'Some Thoughts Concerning Reading and Study for a Gentleman', in *Political Essays*, ed. Mark Goldie (Cambridge, 1997), pp. 348-55, p. 352. Cf. von Leyden, *Essays*, pp. 38-9; Hont and Ignatieff, 'Needs and justice', pp. 36-42; John Marshall, *John Locke: Resistance, Religion, and Responsibility* (Cambridge, 1994), pp. 201-4; Michael J. Seidler, 'The Politics of Self-Preservation: Toleration and Identity in Pufendorf and Locke', in Hochstrasser and Schröder, eds., *Early Modern Natural Law*, pp. 227-55. On Locke's republic of letters, see John Marshall, *John Locke, Toleration and Early Enlightenment Culture* (Cambridge, 2006), pp. 469-535.

II

I turn first to Pufendorf's and Locke's efforts to hold morality apart from nature. All 'Being' or 'Ens', for Pufendorf, is split into 'Substance' and 'Mode' ('*substantiam & modum*'). Moral entities are a subcategory of modes. They 'have no Self-Subsistence' ('*entia moralia non per se subsistere*') but are rather 'affectiones', or 'Properties' as Basil Kennett translates them, of substances. Unlike 'Natural Entities', which are created, the production of moral entities, says Pufendorf, 'cannot be better express'd than by the Term of *Imposition* [*impositionis*]'. They are entirely artificial, pure inventions, owing 'their whole Existence' to 'the Pleasure [*ex arbitrio*]' of intelligent beings – to God, who invents the fundamental rules, and to men, who make up all the rest. They are 'impos'd' on the otherwise 'horrid Stupidity of the dumb Creation', for the 'guiding and tempering' of men, for 'the polishing and the methodizing of Common Life', so that human beings should not 'pass their Life like Beasts, without Culture and without Rule'. Leaving behind him a decimated hylomorphic world, littered with political animals and final ends, Pufendorf insists that moral qualities do not 'proceed from Principles ingrafted in the Substance of Things'.¹⁹

Woven into this natural philosophical polemic is Pufendorf's voluntarist conviction that things are not good or bad in themselves but only insofar as they conform to, or diverge from, the will of a legislator. As Pufendorf writes, 'since Honesty...and Turpitude are Affections of Human Deeds, arising from their agreeableness or disagreeableness to a Rule or a Law, and since a Law is the Command of a Superior, it do's not appear how we can conceive any Goodness or Turpitude before all Law, and without the Imposition of a Superior.'²⁰ This is why, he goes on, in the kind of apparently sceptical formulation that horrifies his contemporaries, 'in reality all the Motions and Actions of Men, upon setting aside all Law, both Divine and Human, are perfectly *indifferent*'.²¹ Language and education dupe us into delusions of moral realism by injecting evaluative components into what should be purely descriptive terminology, such as 'Adultery' and 'Incest'.²²

¹⁹ Pufendorf, *Law of Nature*, p. 2; *De Jure Naturae et Gentium* (Lund, 1672), pp. 2-4 (I will refer to this edition unless otherwise specified).

²⁰ Pufendorf, *Law of Nature*, p. 13.

²¹ Pufendorf, *Law of Nature*, p. 14.

²² Pufendorf, *Law of Nature*, p. 15.

Pufendorf's radical expulsion of morality from nature applies not only to obviously moral notions but to all concepts we might call cultural, that is, to all those constructs that orient the greatest part of our lives. For example, a man is not intrinsically a 'Citizen' or a 'Stranger', but has one of these '*Moral Situation[s]*' placed upon him.²³ However, it is worth noting that even here, when Pufendorf's explicit ambition is to establish the gulf between nature and morality, he countenances the idea that an artificial imposition may effect a natural change. Being given the *persona* of a consul or a doctor, for example, some 'Parts and Dispositions' of a man's nature might be 'rouz'd and enliven'd'.²⁴ Already then, there is the suggestion that moral concepts are not simply masks, to be donned and discarded at will, but are rather clamped on so tight that they might transform our internal constitutions.

Locke repeats Pufendorf's dichotomy of nature and morality almost word for word, Pufendorf's Latin as well as his ideas, suffusing Locke's metaphysics. In the *Essay*, Locke divides complex ideas into '*Substances*' on the one hand, and '*Modes*' on the other. He explains that modes do not subsist in themselves but are 'Dependences on, or Affections of Substances'.²⁵ Actions, such as '*Adultery*, or *Incest*', are a kind of '*mixed Mode*' insofar as they are collections of ideas put together '*very arbitrarily*' without 'reference to any real Existence'.²⁶ And even substances, in a thorough evacuation of essences, '*are made by the mind*, and not by Nature'.²⁷ Gone are the intrinsic purposes of wolves and men, replaced now by blank and unknowable arrangements of matter.

Just as for Pufendorf, so for Locke, actions only become good or bad when they are related to a law. '*Duelling*', for example, is morally neutral, and susceptible to various evaluative complexions: it becomes a 'Sin' when compared to the law of God, but 'Vertue' when measured against the law of fashion. And, just as for Pufendorf, it is language that is at fault for fooling people into imagining that actions are inherently good or bad. As Locke puts it, words, such as '*Drunkenness*' or '*Stealing*', tend to hide the distinction between the '*Idea of the Action*, and its Moral Relation', thereby obscuring the fundamental moral indifference of things from 'those who yield too easily to the Impressions of Sounds, and are forward to take Names for

²³ Pufendorf, *Law of Nature*, p. 6.

²⁴ Pufendorf, *Law of Nature*, p. 7.

²⁵ Locke, *Essay*, p. 165; Locke lists a third category of complex ideas – relations between ideas – but tends to subsume them under mixed modes, e.g., p. 437.

²⁶ Locke, *Essay*, p. 429.

²⁷ Locke, *Essay*, p. 453.

Things'.²⁸ Morality is simply the relation of neutral, made-up, ideas to rules, or as Locke had already put it in his *Essays*: 'there is no fault, no guilt, where there is no law.'²⁹

The artificiality and voluntarism of moral law reeked of scepticism to many of Locke's readers. As Thomas Burnet, backing up Stillingfleet in 1697, spluttered: 'if his [God's] Will be the Original Rule of Good and Evil, and that Will go by no Rule, there is no Rule of Sin to him: All things are Indifferent, till he declare *This* or *That* to be *Sin*, according to his Pleasure'.³⁰ Locke, however, was indignant about the 'Storm', as he called it, that was gathering against him.³¹ He maintained that it is precisely the synthetic character of morality that gives it the sure footing of scientific certainty. Thomas Hobbes had articulated this arresting position in *De Homine* (1658). *A priori* demonstration is only possible, wrote Hobbes, about 'those things whose generation depends on the will of men themselves'. This is why we can have certain, true, knowledge of pure forms of mathematics, such as geometry – 'because we ourselves draw the lines' and 'the generation of the figures depends on our will'.³² Unlike 'natural things', the causes of which 'are not in our power, but in the divine will', and about which we can have only *a posteriori* understanding, 'politics and ethics (that is, the sciences of *just* and *unjust*, of *equity* and *inequity*) can be demonstrated *a priori*; because we ourselves make the principles'.³³ Locke enthusiastically makes the same point. It is because moral ideas are 'not of Nature's but Man's making', 'Combinations of several *Ideas*, that the Mind of Man has arbitrarily put together', and therefore 'adequate' (fully known), and the agreement or disagreement between them perfectly intelligible – that '*Morality is capable of Demonstration*, as well as *Mathematicks*'.³⁴

Pufendorf, by contrast, had met the sceptical charge on his would-be accusers' own ground. Explicitly repudiating Hobbes' defence of maker's knowledge precisely because, he chimed in, it results in relativism, Pufendorf stressed that while God was free to make mankind as he liked, the law of nature followed necessarily from the

²⁸ Locke, *Essay*, p. 359.

²⁹ Locke, *Essays*, p. 119.

³⁰ Thomas Burnet, *Second Remarks Upon An Essay Concerning Humane Understanding* (London, 1697), p. 22.

³¹ Burnet, *Second Remarks*, p. 11.

³² Thomas Hobbes, *Man and Citizen*, ed. Bernard Gert (Indianapolis, 1991), p. 41.

³³ Hobbes, *Man and Citizen*, pp. 42-3.

³⁴ Locke, *Essay*, p. 516; cf. p. 560.

kind of creature he had made.³⁵ As Pufendorf had already explained in the *Elementorum*, while our moral obligations arise ‘from imposition [*ex impositione*]’, it is ‘not the arbitrary [*arbitraria*] imposition of men, but that of the Creator himself’, and thence arises ‘of necessity [*necessario*]’.³⁶

Locke jumps on this bandwagon, unperturbed by any contradiction with his claim that moral ideas are manufactured by men. Echoing Pufendorf in his own early work on the topic, Locke says that God could have ‘created man differently’, but having made him the way he chose, man’s duties follow necessarily [*sequuntur necessario*], giving him a ‘fixed and permanent rule of morals’.³⁷ Human beings invent all manner of rules, such as eating one’s enemies, but as he declares in his *Essay*, there is only one ‘true touchstone of moral rectitude’: the natural law, ‘that Law which God has set to the actions of men’.³⁸ As he stated in ‘Of Ethic in General’, a manuscript from the late 1680s: by contrast with purely conventional morality, the true ‘rules of good and evil’ are (though made) ‘not made by us But for us’.³⁹

III

In this two-tiered metaphysics, the moral law above, morally indifferent nature below, it looks like the only way in which human beings can ascend to the moral sphere is through the interconnected exercise of reason and liberty. This was a recognisably scholastic commitment. As Suárez had stipulated, explicitly adducing Aristotle, there are ‘three conditions’ that must be met for a ‘moral action’ to count as ‘good’: first, ‘the act shall be performed with sufficient knowledge’; second ‘that it shall be freely and deliberately performed’, and third ‘that it shall not only concern a righteous object, but shall also be attended by all the circumstances requisite to the righteousness of an act’.⁴⁰ In addition to acting freely and knowingly, if your action is to qualify as moral, you must also, according to Suárez, have a moral *motive*. It is not enough for you simply to perform virtue. You have to mean it.

³⁵ Pufendorf, *Law of Nature*, p. 13.

³⁶ Pufendorf, *Elementorum Jurisprudentiae Universalis*, trans. William Abbott Oldfather (2 vols., Oxford, 1931), II, p. 7; I (Latin), p. 6.

³⁷ Locke, *Essays*, p. 199.

³⁸ Locke, *Essay*, p. 71; 352.

³⁹ Locke, ‘Of Ethic in General’ in MS Locke c. 28, fos. 146r-152r, fo. 151r.

⁴⁰ Francisco Suárez, *A Treatise on Laws and God the Lawgiver*, in *Selections from Three Works*, trans. Gwladys L. Williams, Ammi Brown, John Waldron, and Henry Davis (2 vols., Oxford, 1944), II, p. 233.

Pufendorf and Locke, revealing their scholastic roots, rehearse this view. What sets men apart from other animals, says Pufendorf, is their reason and their free will, and it is on account of these two faculties, and these alone, that men are able, unlike everything else, to ascend to the moral sphere.⁴¹

Only if you are rational can you understand the law you are under, and be accountable for its breach.⁴² That is why children and the insane, whose minds are insufficiently rational, cannot be moral agents. Like lions, or falling rocks, they cannot comprehend what they ought to do and why, and so cannot be blamed for doing the wrong thing. Both Pufendorf and Locke are sometimes tentative about our capacity to gain demonstrative knowledge of the natural law, veering instead towards probabilism and revelation, Locke in the Scripture-engrossed twilight of his life in his *The Reasonableness of Christianity* (1695), and Pufendorf always in the postlapsarian gloom.⁴³ However, both authors are adamant that one way or another human beings can work out what God commands. This is perhaps especially so for Locke, sceptical about original sin, echoing with Socinianism, and sometimes avid with the hope of a moral science as transparent as the angles of a triangle.⁴⁴ This ‘Light’ of reason, says Pufendorf, enables us to outshine ‘the Condition of Brute Creatures’.⁴⁵ We escape the moral blindness of the rest of nature by being reflective, intelligent creatures.

Freedom seems to be a further indispensable condition of morality, and a spectacular kind of freedom at that. Both Pufendorf and Locke, the former categorically, the latter with some prevarication, seem to say that in order to be held morally accountable, you need not only to possess freedom of action, but freedom of the will as well. If, that is, you are to be legitimately praised or blamed for your

⁴¹ Pufendorf, *Duty*, p. 28.

⁴² Pufendorf, *Law of Nature*, p. 20; Locke, *Essay*, p. 517.

⁴³ See, e.g., Pufendorf, *Law of Nature*, p. 113; Locke, *The Reasonableness of Christianity*, in *John Locke: Writings on Religion*, ed. Victor Nuovo (Oxford, 2002), pp. 85-210, p. 195. See Peter Harrison, ‘The Bible and the emerging ‘scientific’ world-view’, in Cameron, ed., *The New Cambridge History*, pp. 620-40; on the “Enlightenment’s” scepticism about reason and reliance on revelation, see Thomas Ahnert, *The Moral Culture of the Scottish Enlightenment 1690-1805* (New Haven, 2015).

⁴⁴ Locke, *Reasonableness*, p. 92; 190; cf. Locke, *Essays*, p. 183; Idem, Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge, 1988), p. 305. See David Wootton, ‘John Locke: Socinian or Natural Law Theorist?’, in James E. Crimmins, ed., *Religion, secularization and political thought: Thomas Hobbes to J. S. Mill* (London, 1990), pp. 39-67; John Marshall, ‘Locke, Socinianism, ‘Socinianism’, and Unitarianism’, in M. A. Stewart, ed., *English Philosophy in the Age of Locke* (Oxford, 2000), pp. 111-82; S.J. Savonius-Wroth, ‘Lovers of Truth’ in Pierre Bayle’s and John Locke’s Thought’, in Sarah Mortimer and John Robertson, eds., *The Intellectual Consequences of Religious Heterodoxy 1600-1750* (Leiden, 2012), pp. 155-80; Sarah Mortimer, *Reason and Religion in the English Revolution: The Challenge of Socinianism* (Cambridge, 2014); Nicholas Jolley, *Locke’s Touchy Subjects: Materialism and Immortality* (Oxford, 2015).

⁴⁵ Pufendorf, *Law of Nature*, p. 19.

actions, you need to be unconstrained not only by external forces, but by internal forces too. You need, to put it in the classic formulation, not only to have been able to have *done* otherwise, but also to have been free to *choose* otherwise. As Aristotle had put it in the *Nicomachean Ethics*, one is ‘neither praised nor blamed for our passions’, because these are out of our control. Instead, ‘virtues are modes of choice’.⁴⁶ Morality depends therefore not simply on outward power, but also on inward autonomy.

In making this case, Pufendorf is siding with a long line of Schoolmen against Hobbes, who had dismissed their concept of ‘free-will’ as ‘*Absurd, Insignificant, and Non-sense*’. Hobbes had said that there is no difference between men and other animals with regard to the will, that men, just like beasts, act as a result of a ‘continually chaine’ of desires, that the will is simply the ‘*last Appetite in Deliberating*’, and therefore, relishing the etymology, precisely the moment of ‘Deliberation’ – the stripping away of liberty. Liberty for Hobbes is simply a predicate of bodies – just as water is free if it is undammed, so a man is free if his body is unconstrained by chains or other ‘externall Impediments’.⁴⁷

Pufendorf rounds on this analysis by insisting that if men are assimilated into nature in this way then all scope for morality dissolves. If a person is going to be rightly rewarded or punished for their actions, they cannot, like Hobbes’ river, be moved inexorably by natural necessity. They cannot, like other animals, be determined by their passions. In order to be fully free and therefore truly accountable, they must be able to withstand the ‘force and sway’ of ‘Appetite and ... Aversion’. They must, that is, be able to stand as it were apart from action and desire, to *decide* whether to act or not in response to what makes the heart flutter and sink. They must, to put it in the language so beloved of Franciscan voluntarists like Scotus and Ockham that Pufendorf is echoing, have wills that possess ‘Indifference’ as well as ‘Spontaneousness’. Without ‘this Indifference’, Pufendorf states unequivocally, ‘all the Morality [*moralitas funditus*] of Human Actions is inevitably overthrown’.⁴⁸ An indifferent will is, as the Latin reveals, *foundational* to the moral universe. It cleaves all action in two – ‘*natural actions*’ on the one hand, ‘produced by powers which are in one by nature’, and ‘moral actions’ on the other, produced ‘by the decision of the

⁴⁶ Aristotle, *The Nicomachean Ethics*, trans. David Ross (Oxford, 1980), p. 36.

⁴⁷ Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge, 1996), p. 34; 146; 45; 145. Cf. Quentin Skinner, ‘Thomas Hobbes on the Proper Signification of Liberty’, *Transactions of the Royal Historical Society*, 40 (1990), pp. 121-51.

⁴⁸ Pufendorf, *Law of Nature*, pp. 27-8; *De Jure*, p. 51.

will'.⁴⁹ Human beings must, says Pufendorf, have 'the *freedom of Determination*', or, now using another textbook locution that Locke too will pick up, 'the Liberty' of 'suspending ... Actions, without being confin'd to any necessary Course'.⁵⁰ There can be nothing necessary or determined about our actions. Our will must be entirely free, if we are to be properly classed as moral agents.

At first sight, in the first edition of the *Essay*, Locke looks like he is taking Hobbes's side and enmeshing human beings in precisely the deterministic chain of cause and effect that Pufendorf has insisted we must transcend. Indeed, Locke laughs at the idea that the will might be free, as if it were itself a little agent scuttling about a man's mind. To will is simply that, the *activity* of willing – and to ask whether this activity is free or not is like asking whether 'Sleep be Swift'. Once a man is willing, that is it, his mind is made up; it is precisely 'determined'. Moreover, the last thing one wants, *pace* Pufendorf and his voluntarist forbears, is 'a perfect Indifferency in the Mind'. What you want, if you want to flourish, is a mind that is determined by what is good for you, a life that is 'under the necessity of being happy'.⁵¹ Here lies the distinctive summit of the liberty of man: determination of the will by the good. Being free is simply being able to act *according to* one's will.

On closer inspection, however, and in subsequent editions of the *Essay*, Locke smuggles back in a kind of freedom *of* the will. Recalling Pufendorf's exact verbs, Locke says that we have the power 'to suspend any particular desire, and keep it from determining the *will*'. In the end the will must be determined, the mind must be made up, or else we would never do anything, like Buridan's ass dying between the hay and water. Before we decide, however, we are free 'to hold our *wills* undetermined' while we 'weigh' the objects of desire, to assess whether they really do represent our good, or whether in fact, and as is often the case, they will result in short-term pleasure and long-term pain, and are therefore better ignored. Moreover, says Locke, now falling precisely into step with Pufendorf, it is this power to resist the pressures of passion, this power to rise above the deterministic chain of cause and effect, that turns us into

⁴⁹ Pufendorf, *Elementorum*, II, p. 5.

⁵⁰ Pufendorf, *Law of Nature*, p. 27; 2.

⁵¹ Locke, *Essay*, p. 240; 264; 265. See Vere Chappell, 'Locke on the freedom of the will', in Idem, ed., *Locke* (Oxford, 1998), pp. 86-105; James Harris, *Of Liberty and Necessity: The Free Will Debate in Eighteenth-Century British Philosophy* (Oxford, 2005); Walter Ott, *Causation and Laws of Nature in Early Modern Philosophy* (Oxford, 2009).

moral creatures. It is because there is no necessity about what we will, because ‘a Man is at Liberty in respect of *willing*’ that he may ‘justly incur punishment’.⁵²

Reason and freedom are not just two separate conditions for morality, but as Locke indicates, they fuse, and in turn fuse into morality itself. The exercise of that quintessentially human freedom, as opposed to the freedom of rivers and wolves, is the exercise of reason that in turn determines the good. It is, as Pufendorf says, using exactly the same metaphor as Locke, the power to ‘weigh [*trutinare*]’ in one’s mind ‘the opposite Reasons of Good and Evil’. It is that which constitutes the archetypal ‘liberty’ of a ‘Man’ – the power to withstand the torrents of desire through reflection, the power (now back in Locke’s text) to ‘judge’ and ‘examine’ the good and evil of the situation. It is indeed, announces Locke, nothing other than ‘*deliberation*’, delightedly snatching back the word from Hobbes, making it not about the *loss* of freedom but its expansion – deliberation in the sense of rational scrutiny, in the sense of deliberative democracy, a careful pause, a block to the headlong rush of prejudice and feeling, *thereby* coming to see and enact the true good.⁵³

Reason and freedom also coalesce as a condition of morality insofar as acting freely for Pufendorf and Locke involves choice; as Locke says, for the actions of a person to count as moral they ‘must be imputed to his own election’ – and the very notion of choice involves a particular kind of mental awareness.⁵⁴ Acting with ‘reason’, says Pufendorf, involves ‘operating with a kind of freedom of choice’.⁵⁵ In order to be commended or censured for our actions, in order for them truly to belong to us, they must occur as a result of conscious, unforced choice, rather than drifting unreflectively in a particular direction, or being pushed or nudged that way by passion or impulse. As Pufendorf explains, for an action to count as voluntary, and as yours, it has to be ‘made with Reason and with Thought’.⁵⁶ Indeed, your bodily involvement is not necessary; you might enjoin someone else to act for you but you would still be the ‘author’ of that action.⁵⁷ Being an ‘agent’, or ‘*moral cause*’ involves you acting knowingly, as opposed to being acted upon, or sleep-walking into action.⁵⁸ The ‘consummation’ of ‘obligation’ needs ‘recognition [*intellectum*]’ of the obligation.⁵⁹

⁵² Locke, *Essay*, p. 266; 267; 263; 270.

⁵³ Pufendorf, *Law of Nature*, p. 20; *De Jure*, p. 36; Locke, *Essay*, p. 263; 267.

⁵⁴ Locke, *Essay*, p. 271.

⁵⁵ Pufendorf, *Elementorum*, II, p. 3. Cf. Locke, *Essay*, p. 277.

⁵⁶ Pufendorf, *Law of Nature*, p. 27.

⁵⁷ Pufendorf, *Elementorum*, II, p. 5.

⁵⁸ Pufendorf, *Elementorum*, II, p. 4.

As so often in this demanding picture of morality, Suárez flickers in the background. For an action to count as good, he had insisted, it has to be enacted ‘wittingly – that is, with knowledge [*ex scientia, seu cognitione*]’.⁶⁰ If you act virtuously ‘casually and ... incidentally’, such as by giving alms to the poor without knowing that you ought to do so, then you cannot be said to fulfil the obligation. In good Aristotelian style, morality requires not just the ‘material’ element, but the ‘formal’ one too. Moreover, it is not enough to obey the law out of a beleaguered sense of obligation; you have to ‘be inspired by a righteous motive’.⁶¹ Pufendorf follows suit. For an action to count as ‘Morally Good or Evil’, he says, it must ‘not only conform to the Law in all its *Material* Requisites and Conditions’, but also ‘in respect of its *Formality*’. It must, that is, proceed from the proper ‘Intention’. Indeed, he goes on to say that ‘intention’ ‘is a Principle of the greatest Force in determining the Action’s Quality’.⁶² Locke agrees that ‘the intention of the Mind’ is an integral part of a moral action.⁶³

The colours seem to be dry on the picture of morality. To do good, it looks like you have to choose it, freely, consciously, and for its own sake. You have to fly above the plants and the winds and the wolves, and all the rest of nature which bends irresistibly to God’s will, unreflective and unfree and unable to own any of its actions.⁶⁴ While most things are operated, puppet-like, by, as Pufendorf puts it, ‘the sole Instinct of Nature’, human beings have a stiff concoction of ‘Liberty’ and the ‘Light of Understanding’ that detaches them from their strings and turns them into moral agents.⁶⁵ This concoction creates subjects at a distance from their possible actions. It gives them, to use Locke’s evocative metaphor, the power of ‘*standing still*’ against the onslaught of passion and impulse, steadfastly retaliating with the painstaking exertion of reason.⁶⁶ Note the self-control, the self-restraint of the good man, for whom true liberty is not ‘*Licence*’ but rather the will tempered by, moderated by, reason – a matter of putting up hedges to prevent one falling into ‘Bogs and

⁵⁹ Pufendorf, *Elementorum*, II, p. 9; I, p. 8.

⁶⁰ Suárez, *Treatise on Law*, II, p. 237; I (Latin), p. 141.

⁶¹ Suárez, *Treatise on Law*, II, pp. 239–40.

⁶² Pufendorf, *Law of Nature*, p. 60.

⁶³ Locke, *Essay*, p. 478.

⁶⁴ Locke, *Essays*, p. 109.

⁶⁵ Pufendorf, *Law of Nature*, p. 2.

⁶⁶ Locke, *Essay*, p. 266.

Precipices' like hangovers, or adultery.⁶⁷ The good man depicted here is involved in a struggle, rowing against the tides of his deeper nature. The man who is stopping himself being determined by the first, short-sighted desire that pops, or floods, into his head, is a man who is straining, a man of action rather than passivity. He is continually fighting to keep his desires and automatic responses at bay. As Pufendorf explains in the 1688 edition of *De Jure*, 'that part of the Mind where the ... Passions are seated, is in it self irrational'. They need to be 'diligently kept under [*refraenentur*]'.⁶⁸ Kennet's English translation is interesting here, indicating the geography of virtue as something that is *above* unreason. The Latin brings us back to where we began: to morality as a curb, a bridle, on nature.

IV

I want to suggest, however, that on Pufendorf's and Locke's own accounts, nature is not always opposed to virtue. They come together in two ways. First, virtue springs often, perhaps always, from overwhelming animal passions. Second, and more fundamentally, it appears to run in the grain of us. The lines smudge between nature and normativity, and the picture of the moral and political agent needs to be redrawn.

The role of the passions in early-modern moral and political theory is an exciting area of scholarship, commentators moving beyond the calcified dichotomy of reason and passion, and exploring the ways in which philosophers integrated passions into their accounts of cognition and the good life. While part of what I have done above is reemphasise the extent to which Pufendorf and Locke are wedded to the old dichotomy, I want now to build on the revisionist elements in the historiography. I want to show not only how for these authors passions underpin morality, but also how the concept of moral obligation that they try to hive off from physical necessity, sometimes emerges as inseparable from it. They want to hold obligation in a pure juridical space, unsullied and unthreatened by passion and coercion, but I argue that they cannot staunch the pollution.

I begin with that passion that reason is never far behind: self-love – that interest in surviving, in thriving, that we are endlessly ingenious in satisfying. While, above, we saw Pufendorf reinscribing the old Aristotelian line between men and

⁶⁷ Locke, *Two Treatises*, p. 270; 305. See Brian Tierney, *Liberty and Law: The Idea of Permissive Natural Law, 1100-1800* (Washington, 2014); Duncan Kelly, *The Liberty of Propriety: Persons, Passions & Judgement in Modern Political Thought* (Princeton, 2011), pp. 20-58.

⁶⁸ Pufendorf, *Law of Nature*, p. 31; *De Jure* (Amsterdam, 1688), p. 42.

brutes that Hobbes had erased, we now find him assimilating humans back into the animal sphere. ‘In common with all living things which have a sense of themselves’, he declares, ‘man holds nothing more dear than himself’. ‘This passion’, he goes on, ‘is usually so strong that all other passions give way before it’, as it motors us along, leaving other considerations in its wake.⁶⁹ Self-interest has employed the guidance of reason so habitually that it is hard to tell where one ends and the other begins. This passion *knows* that if you want to survive, you need the help of other human animals, if you want to be ‘safe [*salvus*]', you must be ‘sociable [*sociabilis*]’.⁷⁰ Or as Locke puts it in his *Two Treatises of Government* (1689), quoting ‘the Judicious Hooker’, ‘*if I do harm, I must look to suffer*’.⁷¹ Locke is more insistent than Pufendorf about the relative priorities of *utilitas* and *honestum*, stressing, like Cicero, that utility ought to be the serendipitous consequence of righteousness, rather than the source of its motivation, or even its obligation.⁷² However, even Locke, especially after his hedonistic turn, affirms that ‘Interest’, to which men ‘are so constantly true’, draws them to obey ‘the unchangeable Rule of Right and Wrong, which the Law of God hath established’.⁷³

Both authors are voicing the ancient yearning for justice to pay, for the world to be ordered so the just man is happy.⁷⁴ They make a further move in this direction, bringing morality and desire closer together, when they assert that divinely-designed nature promotes virtue and discourages vice. At this point, there is a shift in the light. Nature appears in a new guise, no longer brutal and unreasonable, but wise and benign. She is transfigured into a judicious mistress, dispensing rewards and punishments, respectively, for good and evil deeds. In his goodness, ‘the Creator’, expounds Pufendorf, has made certain advantages and disadvantages flow ‘by a Natural Consequence’ of the observance and transgression of nature’s laws. So, for example, ‘Disquiet of Conscience’ and ‘Destruction of the Body’, follow fast on the heels of iniquity, whereas virtue automatically results in ‘Serenity and Security of

⁶⁹ Pufendorf, *Duty*, p. 33.

⁷⁰ Pufendorf, *Duty*, p. 35; *De Officio Hominis et Civis* (Oxford, 1927), p. 21. On Pufendorffian sociality, see James Tully, ‘Introduction’, in Pufendorf, *Duty*, pp. xiv-xxxvii; Istvan Hont, ‘Introduction’, in *Jealousy of Trade* (Cambridge, Mass., 2005), pp. 37-51; Fiammetta Palladini, ‘Pufendorf Disciple of Hobbes: The Nature of Man and the State of Nature: The Doctrine of *Socialitas*’, *History of European Ideas*, 34 (2008), pp. 26-60; Kari Saastamoinen, ‘Pufendorf on Natural Equality, Human Dignity, and Self-Esteem’, *Journal of the History of Ideas*, 71 (2010), pp. 39-62.

⁷¹ Locke, *Two Treatises*, p. 270.

⁷² Locke, *Essays*, p. 215. Cf. Cicero, *On Duties*, trans. Walter Miller (Cambridge, Mass., 1913), p. 280.

⁷³ Locke, *Essay*, p. 356.

⁷⁴ Plato, *The Republic*, ed. G. R. F. Ferrari, trans. Tom Griffith (Cambridge, 2000), p. 22.

Conscience', 'Preservation of the Body from many Evils', 'besides an infinite number of advantages, which may be obtain'd by the mutual Benevolence and Good Offices of other Men [*ex benevolentia & mutuis officiis aliorum hominum*]'.⁷⁵ There is an interesting discrepancy with the Latin here. While Kennet moves 'mutual' to go with 'Benevolence', thereby subsuming that quality into the instrumental logic of reciprocity and trade, Pufendorf adverts to a natural well-spring of unconditional warmth for, and generosity to others, of the sort that we might associate with Hutcheson and his fans, and that we will see more of below. For now, we note the natural advantages and disadvantages that accompany virtue and vice. Here, too, later enlightenment thinkers come to mind, and their realm of transparent providence. It appears that seventeenth-century philosophers had already begun to theorise this realm.

This is another side of early-modern natural jurisprudence, where nature is not opposed to morality but rather arranged to encourage it. Pufendorf singles out Richard Cumberland as having articulated the idea of '*Natural Rewards*' and '*Punishments*'.⁷⁶ As with so much in Cumberland, we find the same in Hobbes. The 'Naturall Lawes', we read in *Leviathan* (1651), are backed up by 'Naturall Punishments', so that, for example, 'Intemperance, is naturally punished with Diseases; Rashnesse, with Mischances; Injustice, with the Violence of Enemies; Pride, with Ruine; cowardise, with Oppression', and – in a pair of warnings that take our breath away only to bring it back – 'Negligent government of Princes, with Rebellion; and Rebellion, with Slaughter'.⁷⁷ Locke falls into line, referring in 'Of Ethic in General' to 'natural good & evil which by the natural efficiency of the thing produces pleasure or paine in us'. The 'headache or sicknesse' that proceeds from 'drinking to Excesse' 'is a natural evil' that God has providentially ordained to keep us sober.⁷⁸

The wheels of pleasure and pain can be heard whirring relentlessly in the background of our moral lives. As Locke comes clean in the *Essay*: 'Nature, I confess, has put into Man a desire of Happiness, and an aversion to Misery'. Holding loosely for a moment to his own mantra that the mind is a blank slate, and indicating the normative depth of human nature, he declares that these 'innate practical Principles ... continue constantly to operate and influence all our Actions, without

⁷⁵ Pufendorf, *Law of Nature*, p. 116; *De Jure* (Amsterdam), p. 153.

⁷⁶ Pufendorf, *Law of Nature*, p. 116.

⁷⁷ Hobbes, *Leviathan*, pp. 253-4.

⁷⁸ Locke, 'Of Ethic', fos. 149v-150r.

ceasing'. While moral man had appeared to transcend the machine of nature, he is now refigured as a machine himself, whose desires are the 'Springs and Motives of all our Actions' that we 'perpetually feel' 'strongly impelling us'.⁷⁹ Picking up the metaphor later, Locke explains that 'Good and Evil, are the hinges on which our *Passions* turn'.⁸⁰ Pufendorf chimes in with his account of the passions which, as the Latin demonstrates, impel (*'impellunt'*) the will to action having been stimulated by the perception of *boni aut mali*.⁸¹ There is, it turns out, *pace* the opposite view that we met above, 'no Indifference' with regard to the general inclination of the will, determined as it is towards the 'agreeable' or 'Good', away from the 'disagreeable' or 'Bad'.⁸² We saw Locke make this point with regard to a will determined by reason, but here we see him and Pufendorf sliding into a will determined by passion, as morality tips into nature. The rational and free agent that we thought we saw clearly is now resolving into an automaton.

Good and evil re-emerge, in this alternative picture, not only as motivated by the sensations of pleasure and pain, but moreover as the names of the things that cause those sensations. When Locke is deep in this empiricist vein, '*Good*' is simply the name of that which produces pleasure, and '*Evil*' the name of the source of pain.⁸³ While so-called 'naturall' goods, like sobriety, bring us pleasure according to the natural chain of cause and effect, 'morall' goods are those things which do not naturally result in pleasure, but which 'by the intervention of the will of an intelligent free agent,' draw 'pleasure or pain after' them.⁸⁴ Moral goods, that is, are those things for which God will reward us.

Not only are the referents of moral goods often the same as those of natural goods, but God turns out to be the manipulator of our limbs. All the dazzling architecture of natural religion seems to melt away like a mirage. Having designed us to seek pleasure, and avoid pain, God then dangles heaven and hell in front of us, and operates us accordingly. These are bliss and torment of such extravagant, unsurpassable, proportions, that if we were only to see them for what they are, we

⁷⁹ Locke, *Essay*, p. 67. See James Tully, 'Governing conduct: Locke on the reform of thought and behaviour', in *An approach to political philosophy: Locke in contexts* (Cambridge, 1993), pp. 179-241.

⁸⁰ Locke, *Essay*, p. 229.

⁸¹ Pufendorf *De Jure*, p. 55.

⁸² Pufendorf, *Law of Nature*, p. 29.

⁸³ Locke, *Essay*, p. 229.

⁸⁴ Locke, 'Of Ethic', fo. 149v.

would bend inexorably to our inventor's will. There is not a man alive who would not give up in a heartbeat every passing earthly lust for a taste of the food in heaven.⁸⁵

It is hard to see how these Epicurean marionettes might count as the moral persons we met above. If you do the right thing not because it is the right thing to do but rather because you stand to gain from it, and if you are thinking of the subjective rather than the objective good, then morality seems to reduce to a combination of self-interest and base, unreflective passion. Moreover, if you are a puppet on a string, then your agency seems to evaporate.

Pufendorf and Locke try to manage these threats to moral personhood in their accounts of law, motivation, and obligation. Both authors are clear that part of the definition of law is that it must be accompanied by sanctions. Otherwise, it would simply be advice or counsel. 'It would be utterly in vain,' elaborates Locke, 'to suppose a Rule set to the free Actions of Man, without annexing to it some Enforcement of Good and Evil, to determine his Will'.⁸⁶ What makes a law *a law* is that it is backed up by rewards and punishments – pleasures and pains – of precisely the sort we have just seen described. But that is not *why* one should obey it. Indeed, on the severest interpretation, handed down by Suárez, if an action is not performed out of love of justice for its own sake, but rather from the fear of punishment, then the actor is said to be 'unwilling [*involuntarium*]'.⁸⁷

Pufendorf and Locke do not take such a hard line, conceding that rewards and punishments may be a source of *motivation*, carrots and sticks for the weak of will. They simply cannot be the source of *obligation*. The source of obligation had long been a thorny debate between rationalists and voluntarists, and while Pufendorf and Locke do their own little dances around the issue, both agree that we are obliged to obey God's commands primarily because he has a right over us, and (though this does not underpin his right) he is good. This right-good synthesis is the source of obligation, and is separate from the source of motivation – which might be sanctions. Here is Locke tiptoeing between the lines: God rules us by law because: 'He has a Right to do it, we are his Creatures: He has Goodness and Wisdom to direct our

⁸⁵ Locke, *Essay*, pp. 272-7.

⁸⁶ Locke, *Essay*, p. 351.

⁸⁷ Suárez, *Treatise of Law*, II, p. 234; I, p. 140. See John Finnis, *Natural Law and Natural Rights* (Oxford, 1980), p. 348; *passim*; Thomas Pink, 'Reason and obligation in Suárez', in Benjamin Hill and Henrik Lagerlund, eds., *The Philosophy of Francisco Suárez* (Oxford, 2012), pp. 175-208; Terence H. Irwin, 'Obligation, rightness, and natural law: Suárez and some critics', in Daniel Schwartz, ed., *Interpreting Suárez: Critical Essays* (Cambridge, 2012), pp. 142-62.

Actions to that which is best: and he has Power to enforce it by Rewards and Punishments, of infinite weight and duration, in another Life: for no body can take us out of his hands.’⁸⁸ However, for all that Locke and Pufendorf try and avoid the charge of instrumentalism by distinguishing between obligation and motivation, they smudge the distinction. Moreover, it looks as though most men, with God’s blessing, have their tongues out, and their tails wagged, at the prospect of eternal delight, not mindfully choosing the good for its own sake, nor obviously free to resist the strings that pull them this way and that.

Which brings us to the question of God’s power. As we saw in Section III, what makes a law *a law*, in addition to sanctions, is that one is free to disobey it, to ignore those sanctions – otherwise it is violence or coercion, and one cannot be said to be the author of one’s actions in such conditions. Again, Pufendorf and Locke step gingerly around God’s power, wanting it to be both more, and less, than brute force – needing it to be legitimate authority (as opposed to pure muscle), and something which one is free to resist. A law, that is, must be both good and non-compulsive. Continuing to defend the motivation/obligation distinction, our authors try to proffer a concept of law that treads the fine line between right and might. As Locke insists, ‘not all obligation seems to consist in, and ultimately to be limited by, that power [*potentia*] which can coerce offenders and punish the wicked, but rather to consist in the authority and dominion [*potestate et dominio*] which someone has over another’.⁸⁹ A rightful ‘law maker’, he summarises, is ‘one that has a superiority & right to ordeyne & also a power to reward & punish’.⁹⁰ As Pufendorf puts it, ‘Obligation differs from down-right Compulsion [*obligation differ à coactione*]’ (Kennet characteristically adds the ‘downright’), because the driving of the will does not occur ‘undeservedly [*non immerito*]’.⁹¹ Furthermore, as we recall, in order to exist in that peculiar juridical space of an obligation, one must, as Pufendorf says, have ‘a Will intrinsically free, able to steer contrary ways’ to the obligation.⁹² Obligation, properly understood, must not take ‘away the Wills intrinsick Liberty’.⁹³ ‘To *compel*, and to

⁸⁸ Locke, *Essay* p. 352. Cf. Pufendorf, *Duty*, p. 36.

⁸⁹ Pufendorf, *Law of Nature*, p. 49; Locke, *Essays*, pp. 183-5.

⁹⁰ Locke, ‘Of Ethic’, fo. 152r.

⁹¹ Pufendorf, *Law of Nature*, p. 47; *De Jure*, p. 82.

⁹² Pufendorf, *Law of Nature*, p. 49.

⁹³ Pufendorf, *Law of nature*, p. 32.

oblige [*cogere*, & *obligare*]', protests Pufendorf (too much, I think), 'are very different Matters'.⁹⁴

The notion of obligation had always balanced precariously, even in its etymology, between real and metaphorical ties, and if we look at two eighteenth-century dictionaries we find it cashed out as both to 'compel, constrain, force', and 'to bind by contract or oath'.⁹⁵ Both Pufendorf and Locke try to hold the moral apart from the physical, harking back to the scholastic idea of the delicate internal, metaphorical tie that binds the conscience *in foro interno*, the internal court that judges us.⁹⁶ As Locke puts it, 'all obligation binds conscience and lays a bond [*vinculum*] on the mind itself, so that not fear of punishment, but a rational apprehension of what is right, puts us under an obligation, and conscience passes judgement on morals'.⁹⁷ Pufendorf explains in *De Jure* that obligations 'as it were, cast an inward Tie and Restraint [*velut vinculum*] upon the Liberty of our Wills'.⁹⁸ Adverting again in *De Officio* to the analogical and colloquial quality of the concept, he explains that 'Obligation is commonly defined as a bond of right [*vulgo ... obligatio dicitur vinculum juris*]'. It is, he elaborates, reaching for further idioms to grasp hold of the evasive concept, supposed to put 'a kind of bridle [*quasi fraenum*] on our liberty, so that, though the will can in fact take different directions it yet finds itself imbued by it with an internal sense (so to speak), so that it is compelled to recognize that it has not acted rightly'.⁹⁹ It is instructive that the *definitions* of obligation lie in similes and metaphors. It is as though the concept itself is slippery, struggling to find its referent.

Our authors scramble to maintain the lightness of obligation that is required to stop it plummeting towards coercion. Obligation must not involve 'necessity', contends Pufendorf.¹⁰⁰ When one is under an 'Obligation', this is 'Moral', whereas when one is forced, this is 'Physical', and 'ariseth' from 'Necessity'.¹⁰¹ And yet this sounds like precisely what he says God's sanctions do; they impose 'an internal

⁹⁴ Pufendorf, *Law of Nature*, p. 50; *De Jure*, p. 88.

⁹⁵ Thomas Dyche and William Pardon, *A new general English Dictionary* (London, 1737), sig. Zzz3^v; A. Fisher, *An Accurate new Spelling Dictionary and Expositor of the English Language* (1777), sig. S2^v.

⁹⁶ Cf. Hobbes, *Leviathan*, p. 110.

⁹⁷ Locke, *Essays*, p. 185.

⁹⁸ Pufendorf, *Law of Nature*, p. 52; *De Jure*, p. 93.

⁹⁹ Pufendorf, *Duty*, p. 27; *De Officio*, p. 13.

¹⁰⁰ Pufendorf, *Law of Nature*, p. 47.

¹⁰¹ Pufendorf, *Law of Nature*, p. 49.

necessity, and the power to compel [*necessitatem ... & vis cogendi*].¹⁰² In the final analysis, ‘Obligations receive their final Strength and Authority from Force [*Sic ut demum ultima velut firmitas obligationibus accedat à vi*].’¹⁰³ While Kennet embellishes the Latin to ram home the uneasy intimacy between authority and force, Pufendorf’s ultimate recourse to *vis* is clear. As Locke puts it, without rewards and punishments, ‘the force of morality is lost and evaporates only into words and disputes and niceties.’¹⁰⁴

Hobbes had been gleefully unperturbed by the coercive power of law. Laws are but ‘Artificiall Chains’, he crowed, not really chains at all, just words, threats of bondage. They leave men physically free, their liberty in the proper signification – the liberty of their bodies – intact.¹⁰⁵ Indeed, there is of course no such thing as coercion for Hobbes. So-called internal impediments, violent passions like the fear of death, do not count as impediments to freedom, since only persons, not wills, can be free. Everything we do is caused by one passion or another. So long as one has options, even if those options are between the devil and the deep blue sea, one is still free to choose. The man who ‘throweth his goods into the Sea for *feare* the ship should sink’, does it ‘very willingly’.¹⁰⁶ Here Hobbes is engaging with Aristotle, who had in his *Nicomachean Ethics* given this instance as an example of a ‘mixed’ action – one that is both voluntary and involuntary.¹⁰⁷ Hobbes is responding that there is nothing mixed about it. It is purely voluntary, because ‘Feare, and Liberty are consistent’.¹⁰⁸ That is why the monster of Leviathan legitimately obliges us, because ‘Covenants entred into by fear ... are obligatory’.¹⁰⁹

Locke twitches. Squaring up against Hobbes, he insists that there *can* be internal impediments to freedom, that there is such a thing as coercion and that it takes away your liberty. When you promise because you are mortally afraid, your promise is not binding.¹¹⁰ When a man puts a gun to your head, and you give him your purse, you do not do so freely.¹¹¹ That is extortion, not obligation.

¹⁰² Pufendorf, *Duty*, p. 29; *De Officio*, p. 15.

¹⁰³ Pufendorf, *Law of Nature*, p. 52; *De Officio*, p. 70.

¹⁰⁴ Locke, ‘Of Ethic’, fo. 150v.

¹⁰⁵ Hobbes, *Leviathan*, p. 147.

¹⁰⁶ Hobbes, *Leviathan*, p. 146.

¹⁰⁷ Aristotle, *Nicomachean Ethics*, p. 48.

¹⁰⁸ Hobbes, *Leviathan*, p. 146.

¹⁰⁹ Hobbes, *Leviathan*, p. 97.

¹¹⁰ Locke, *Two Treatises*, p. 392.

¹¹¹ Locke, *Two Treatises*, p. 393.

And Pufendorf, for his part, had weighed in on the case of the man on sinking boat. Agreeing with Aristotle, and rounding on Hobbes, Pufendorf repeats that some actions are ‘*Mixt*’, that is, ‘partly voluntary and partly involuntary’. The man who tips his property overboard does it ‘*spontaneis & invitis*’. So great is his fear of death that his will is ‘driven [*adigatur*]’ against itself, the ‘Obligation’ (note here, used in a non-moral context), so ‘straight [*rigida*]’, that he is absolved of blame.¹¹² Pufendorf’s verb, ‘adigere’, can mean *both* to bind by oath and to drive, drawing renewed attention to the instability of the concept of obligation, and how its moral form stumbles into its natural one. ‘The will’ of the boatman ‘is so vehemently urg’d and press’d’, that the resulting actions come under the heading of ‘necessity’.¹¹³

Passions, then, for Pufendorf and Locke *can* take away your freedom. Indeed, Locke goes so far as to compare their internal pressure to the external forces of the world. Just as a ‘Hurricane’ hurries ‘our Bodies’, so ‘a boisterous Passion hurries our Thoughts’, and renders us unfree.¹¹⁴ In a further instructive simile, Locke goes so far as to compare passions to ‘the Rack’.¹¹⁵ They can be so ‘violent’, he announces, that they allow ‘us not the liberty of thought’. Under a battery of emotions we are no longer ‘Masters ... of our own Minds’.¹¹⁶ While Pufendorf wants to insist that the will can resist the ‘Violence’ of the passions, the language he uses to represent them tells a different story. Bubbling up from their ‘irrational’ home, they assault us with ‘sudden Sallies’. In a premonition of Freud, or a recollection of Plato, he suggests that they are like horses whose ‘Reins [*habenis*]’ have been let go, with the result that the mind is ‘drag’d [*trahi*] by those it ought to guide’.¹¹⁷

Seen now in this light, the obligations of morality, accompanied by incomparably terrifying hellfire and seductive paradise, look both more compulsive than obligatory, and as though they come from a place of unreason. Indeed, Pufendorf and, even more enthusiastically, his English translator, draw on the same image of ‘Torture [*tormentis*]’ that Locke had deployed, a metaphor that slides uncomfortably into literalness in an age when the practice was common, to evoke the pain that ‘proceed[s] from the Strength and Power of Almighty GOD [*ex viribus DEI omnipotentis*]’, through the providential mechanism of conscience. Pufendorf quotes

¹¹² Pufendorf, *Law of nature*, p. 33; *De Jure*, pp. 56–57.

¹¹³ Pufendorf, *Law of Nature*, p. 33.

¹¹⁴ Locke, *Essay*, p. 239.

¹¹⁵ Locke, *Essay*, p. 267.

¹¹⁶ Locke, *Essay*, p. 268.

¹¹⁷ Pufendorf, *Law of Nature*, p. 31; *De Jure* (Amsterdam), p. 42. Cf. Plato, *Phaedrus* 426a–b.

Juvenal on the torture (*tortore*) and whipping (*flagellum*) that rages in what Thomas Creech translates as ‘a guilty Mind’.¹¹⁸

Men are looking more like animals, like the beast machines that are prodded to their good, as opposed to human beings who freely, consciously march towards on it. Pufendorf and Locke might try to keep moral obligation away from the barage of instrumental motivation and irresistible coercion, but in their own texts, good and evil are descending into nature. The two spheres, moral and natural, seem to be dissolving into one another.

V

There is still, however, in the above account, a fissure between nature and normativity, between what we are and what we should be, a gap that God tries to close with the levers of our passions. In this section I suggest that Pufendorf and Locke sometimes go further, closing the gap completely, nature itself becoming normative, such that ‘is’ and ‘ought’ unite. We have seen the good start to fall to earth, but it remained at one remove, and was tied instrumentally to our basic instincts. Now, they appear indistinguishable. And God, whom we have just seen conduct our heart strings, melts slightly into the background. His providence is still at work but it is nature that shimmers on the page.

Our authors are engaging with a discourse that posits the normativity of nature, an alternative discourse of natural law, in which there is a certain rightness to the progress of things, the kind of natural law that resembles the kind we might associate more with eighteenth-century theorists such as Hume and Vico. This discourse comprises many interweaving threads. It betrays an on-going affair with the value-laden, purposive nature of Aristotelianism that the new science had officially rejected. It flirts tentatively again with the innatism it is supposed to have spurned. It remembers, with Augustine, as well as Stoics, a prelapsarian, or golden, age of peace and natural fellowship. And it draws on particular conceptions of divine providence that have both Christian and pagan roots, that imagine a divinity running through the course of things rather than damming the noxious flow, a divinity that is part of nature rather than outside, punishing it, a divinity immanent in the activity of nature. The Stoics echo especially. To recall their basic equation, in Stobaeus’ words: ‘living in

¹¹⁸ Pufendorf, *Law of Nature*, p. 53; *De Jure*, p. 94.

accordance with virtue' is 'the same' as 'living in accordance with nature.'¹¹⁹ Here is no circuitous route from nature to virtue, and certainly no gulf between the two, but rather a continuity that reappears on the pages of early-modern texts.

The deepest moral impulse is none other than self-love, seen now, though, not in its Epicurean incarnation, nor as instrumentalising rational self-interest, but rather as a basic way in which God cares for his dearest creation. Cato, in Cicero's *De Finibus*, had proudly explained how the Stoics believe that 'immediately upon birth ... a living creature feels an attachment for itself, and impulse to preserve itself and to feel affection for its own constitution'; this 'love of self ... supplies the primary impulse to action'.¹²⁰ Pufendorf repeats the point: 'self-love is implanted deep in man; it compels him to have a careful concern for himself'. Evoking the dignity of this irresistible impulse, Pufendorf characterises it as nothing less than a moral 'obligation [*obligationem*]'; we are bound by right (as well as might) to nurture the creator's most extraordinary handiwork, and not to squander his gifts.¹²¹ Locke agrees, declaring that man is 'obliged to preserve himself'. It is a 'duty', moreover, that he is 'very much urged on to [*impellatur*]...by an inward instinct'.¹²² Obligation is now indistinguishable from instinct, and what looked like grubby selfishness is repaired to a worthy affection for a divine artefact, a moral urging that propels us automatically through life.

Beating alongside this love for ourselves is the more obviously virtuous love for others. In various ways, we are fitted for sociability, often at a cost to ourselves. Most basic are the instincts we share with other animals for sex and reproduction and, following that, for our offspring. This view had made its way into Roman law. The *ius naturale* emerges in the Digest of Justinian as that law which obliges even 'wild beasts', out of which 'comes the union of man and woman which we call marriage, and the procreation of children, and their rearing'.¹²³ Cicero homes in on the rearing of children. He identifies it as the irrepressible seed of sociable impulse, the 'origin of the association of the human race in communities'.¹²⁴ Augustine characterises our association with, and obligations to others as a matter of feral compulsion, again muddying the boundary between humans and animals, between global civility and the

¹¹⁹ Long and Sedley, *Hellenistic philosophers*, I, p. 394.

¹²⁰ Cicero, *On Ends*, trans. H. Rackham (Cambridge, Mass., 1931), pp. 233-5.

¹²¹ Pufendorf, *Duty*, p. 46.

¹²² Locke, *Essays*, pp. 157-9.

¹²³ *The Digest of Justinian*, ed. Alan Watson (2 vols., Philadelphia, 1998), I, I.1.

¹²⁴ Cicero, *On Ends*, p. 283.

savagery of beasts. Even the most solitary and ferocious creatures, the tigress and the bird of prey purr and nest and care for their young. And humans do this and more. ‘A human being’ is ‘drawn by the laws of his nature’ beyond his nearest and dearest ‘to enter upon a fellowship with all his fellow-men and to keep peace with them’.¹²⁵

The natural law emerges in this alternative iteration as precisely the kind of law that the moral law was not supposed to be, a law that applies definitionally not to human beings, but to the *rest* of nature. It looks, that is, like the kind of law, in Locke’s words, that causes ‘the heaven’ to revolve ‘in unbroken rotation’, and regulates even ‘the wild sea [*indomito mari*]’ – a quasi-Newtonian law that moves us towards others, infuses us with fellow feeling, the kind of law that was revived by Grotius after his Stoic turn in *De iure belli ac pacis* (1625) (a book recommended together with Pufendorf’s *De Jure*, by Locke in 1693 for nascent gentlemen).¹²⁶ Like other animals – and here the self-sacrificial character of natural sociability comes into view – men ‘forget’ ‘their own interest, in favour of their young ones, or those of their own kind.’ Even children, says Grotius, completely unschooled in right and wrong, nevertheless have ‘a propensity to do good to others’.¹²⁷

Locke reprises these arguments. He preaches, for example, that ‘God in his infinite Wisdom has put strong desires of Copulation into the Constitution of Men, thereby to continue the race of Mankind’ (it is not obvious that Locke was speaking from experience).¹²⁸ Like Augustine’s tigress, Locke’s parents ‘temper’ their ‘power’, God having put in them ‘Inclinations of Tenderness and Concern’ towards their children.¹²⁹ The love for their offspring is so strong ‘that they sometimes neglect their own private good for it’. Throwing self-preservation to the wind, and ‘when their Young stand in need of it, the timorous become Valiant, the Fierce and Savage Kind, and the Ravenous Tender and Liberal’.¹³⁰ This kind of precipitate virtue, that hurls us into heroism without a second thought, extends beyond the family and into ‘the commonwealth and all mankind’, reinscribing the same extravagantly sociable arc celebrated by Stoics. Locke adverts to Roman heroes, whose ‘toil, hazards, and

¹²⁵ Augustine, *City of God*, trans. Henry Bettenson (Harmondsworth, 1984), p. 868.

¹²⁶ Locke, *Essays*, pp. 108-9; Locke, *Some Thoughts Concerning Education*, ed. John W. and Jean S. Yolton (Oxford, 1989), p. 239. See G.A.J. Rogers, ‘Locke, Law, and the Laws of Nature’, in Reinhardt Brandt, ed., *John Locke: Symposium Wolfenbuttel 1979* (Berlin, 1981), pp. 146-62.

¹²⁷ Grotius, *The Rights of War and Peace*, ed. Richard Tuck (Indianapolis, 2005), pp. 82-3.

¹²⁸ Locke, *Two Treatises*, p. 179.

¹²⁹ Locke, *Two Treatises*, p. 309.

¹³⁰ Locke, *Two Treatises*, p. 181.

generosity' flowed lavishly from their integrity.¹³¹ This is the 'best' kind of virtue, when 'we do good to others at our own loss'.¹³² It seems to come naturally, springing up from the unthinking depths of our bodies.

There are two, higher order fittings of nature that promote the distinctively human community. The first is language, 'that most Noble Instrument', as Pufendorf calls it. It enables us to communicate complex thoughts and sentiments, and travel out of the solitude of our minds, into intersubjectivity.¹³³ It is, now in Locke's words, 'the great Instrument, and common Tye of Society.'¹³⁴

The second peculiarly human trait that induces sociability is shame. In 1678, Locke wrote a manuscript that began: 'The principal spring from which the actions of men take their rise, the rule they conduct them by, & the end to which they direct them seems to be credit & reputation, & that at any rate they avoid is in the greatest part shame & disgrace'.¹³⁵ Locke thought that our skins are so thin, our concern for others' judgement so fervent, that in his tripartite taxonomy of laws in the *Essay*, he lists 'The Law of Opinion or Reputation' alongside divine and civil law.¹³⁶ Countering those who think this a frivolous inclusion, he challenges them to consider the pain of disapproval, the pleasure of praise. Being snubbed by one's peers is, Locke says, 'a Burthen too heavy for human Sufferance', and a deep and constant motor of our action.¹³⁷ Pufendorf gives an equally, if not more innate, unreflective, and impulsive account of the 'Passion of Shame'. Having argued that morality is imposed on, rather than inherent in things, he has to 'confess' that God seems to have 'mingled [*insitutum*]' this 'Passion' in 'Human Constitutions' as a spur to doing the right thing. 'Our very Blood', says Pufendorf, 'seems to have a natural sence of wicked Deeds'. More generally, when we feel ourselves dip in the estimation of our 'Neighbours', 'the heart ... sends up [*propellit*] the Blood to be an outward Sign' of

¹³¹ Locke, *Essays*, p. 209.

¹³² Locke, *Essays*, p. 207.

¹³³ Pufendorf, *Law of Nature*, p. 109. For an elaboration of attitudes to language at the time, see Hannah Dawson, *Locke, Language and Early-Modern Philosophy* (Cambridge, 2007), and on Locke's anxieties about language for sociability, see Dawson, 'Locke on Language in (Civil) Society', *History of Political Thought*, 26 (2005), pp. 397-425.

¹³⁴ Locke, *Essay*, p. 402.

¹³⁵ MS Locke f. 3, pp. 381-2, p. 381. See Tim Stuart-Buttle, "'A burthen too heavy for human sufferance": Locke on reputation', *History of Political Thought*, 38 (2017), pp. 644-88; Hannah Dawson, 'Shame in early modern thought: from sin to sociality', *History of European Ideas* (2018).

¹³⁶ Locke, *Essay*, p. 353.

¹³⁷ Locke, *Essay*, p. 357.

our ‘deepest regret’.¹³⁸ Again, it is the *body* that knows good from evil, the body that acts accordingly. If we compare this to those natural rewards and punishments that follow automatically from good and bad, and cause us to think again, to think better, now the sanctions are inside us. They have moved even further from head to heart.

Saturating the alternative, instinctive, portrait of morality is the Stoic concept of *oikeiōsis* – that ‘exquisite Desire of Society’, as Grotius translates it, ‘a certain inclination to live with those of his own kind’.¹³⁹ In *De Finibus*, Cicero had talked about ‘the sense of mutual attraction which unites human beings as such’, and which is ‘bestowed by nature’.¹⁴⁰ In *De Officiis*, he repudiated the view that individuals come together only for expediency, preferring otherwise the *vita contemplativa*. He declared that even if all our practical needs were met, and we no longer required the company of other humans, we would flee our isolation, so drawn are we to creatures like ourselves.¹⁴¹ Like bees that gather not only to make honey but also ‘because they are gregarious by nature, so human beings – and to a much higher degree’ than bees – unite in communities.¹⁴²

Even Pufendorf, who often veers towards a more instrumental, Hobbesian view of sociability than Locke, quotes approvingly from this section of *De Officiis*. Indeed, the citation comes straight after Pufendorf has been explaining why ‘it is necessary that he [man] be Social’ for reasons of self-preservation.¹⁴³ This is one ‘cause’ of sociability, he says, but there are other ‘arguments’ to demonstrate ‘a Sociable Nature in Man’, the first of which is that ‘nothing is more sad ... than perpetual Solitude’. He then unleashes whole paragraphs of Cicero’s work to adumbrate the point that all of us, as a matter of deepest desire, ‘fly Solitude’. Sociability is part of our nature, one of our ‘inclinations’, something to which we are ‘born’.¹⁴⁴ As Pufendorf says in his own *De Officio*, ‘Nature herself has willed that there should be a kind of kinship [*cognationem*] among men’.¹⁴⁵ While original sin suffuses Pufendorf’s vision, he has not forgotten that time in the beginning when man was ‘inclined’ ‘to love his neighbour’ ‘by nature’. Indeed, he runs it together with the

¹³⁸ Pufendorf, *Law of Nature*, p. 16. *De Jure*, p. 27.

¹³⁹ Grotius, *Rights of War and Peace*, pp. 84; 79-81. See Christopher Brooke, ‘Grotius, Stoicism and ‘Oikeiōsis’, *Grotiana*, 29 (2008), pp. 25-50.

¹⁴⁰ Cicero, *On Ends*, p. 283.

¹⁴¹ Cicero, *On Duties*, p. 163.

¹⁴² Cicero, *On Duties*, p. 161.

¹⁴³ Pufendorf, *Law of Nature*, p. 108.

¹⁴⁴ Pufendorf, *Law of Nature*, pp. 109-10.

¹⁴⁵ Pufendorf, *Duty*, p. 119; *De Officio*, p. 103.

bygone age described by Tacitus when ‘the earliest men ... desired nothing contrary to good morals’.¹⁴⁶ The edicts of morality are still ‘so closely interwoven with our Being’, as Kennet phrases it, that no one can be insensitive to them. The Latin is ‘*ita penitus naturae insita*’, evoking the organic way in which virtue is planted, or sown within us.¹⁴⁷ The new picture does not obliterate the old, then, but juts up against it.

Picking up the same point in his *Essays on the Law of Nature*, Locke declares that the law of nature is ‘implanted in our hearts’, in von Leyden’s translation.¹⁴⁸ The Latin, *pectoribus nostris insitam*, pushes the point home – the same earthy *insitus* that we saw in Pufendorf, and *pectus*, as well as heart, meaning chest, breast, the seat of passion, conjuring up a peculiarly embodied moral life. *Oikeiōsis*, and its Ciceronian iteration, positively sings through the following passage of Locke’s. Man, he says,

feels himself not only to be impelled by life’s experience and pressing needs to procure and preserve a life in society with other men, but also to be urged to enter into society by a certain propensity of nature [*propensione quadam naturae incitari*], and to be prepared for the maintenance of society by the gift of speech and through the intercourse of language, in fact as much as he is obliged [*obligetur*] to preserve himself.¹⁴⁹

This is the same double-faced presentation that we saw in Pufendorf: a sociality of desire, as well as need. If there were any doubt about Locke’s affiliations in this early text, he goes so far as to define the moral law there in explicitly Stoic terms, as ‘the rule of living according to nature [*secundum naturam vivere*]’.¹⁵⁰

While this early work is Locke’s most sustainedly Stoic piece of writing, and while some of his views change subsequently, an intimacy between nature and morality remains. In the *Two Treatises*, for example, he adverts to both the ‘Necessity’ and the ‘Inclination’ that ‘drive him [man] into *Society*’, to the ‘*first Society*’ ‘between Man and Wife’ that swells to children, to households, and finally to

¹⁴⁶ Pufendorf, *Duty*, p. 11.

¹⁴⁷ Pufendorf, *Law of Nature*, p. 21; *De Jure*, p. 38.

¹⁴⁸ Locke, *Essays*, pp. 132–3.

¹⁴⁹ Locke, *Essays*, pp. 157–9.

¹⁵⁰ Locke, *Essays*, p. 111; cf. p. 109.

civil society.¹⁵¹ There we have it: the blending of duty with utility and disposition, the collapsing of that neatly bisected world I described at the beginning of this article into one jostling whole.

VI

While Pufendorf and Locke try to drain nature of its teleological colour, then, it seeps back in. There is morality in the machine, virtue in the beast. Actions with at least the complexion of goodness seem here to be performed by unreflective and unfree creatures.

Where does this leave us? One might think that this is simply a contradiction, a mess. On the one hand, our authors announce a clean break between nature and morality, claiming that men can only transcend the necessity of nature through reason and freedom. On the other hand, they blur their own sharp lines between the two domains, and seem ultimately to offer up shadows of human agents. How can these automata, controlled by passion and impulse, be morally accountable?

Perhaps, in accordance with their naturalistic accounts of morality, Pufendorf and Locke are feeling their way towards a new model of agency. No more the dislocated subject, separated from her life by the illusions of intention and choice, but rather a person, whose actions are an emanation of her whole self, her desires and compulsions, her movement and her stillness, just as much as her considered thoughts. This agent *is* her actions. She cannot fly above nature; she is part of it, moved by forces she cannot control, but nonetheless a force herself. As Locke remarks suggestively, ‘nature must be altogether negated before one can claim for himself absolute liberty’.¹⁵²

This refigured conception of agency makes sense not only of the bewildering variety of social activity, but throws some helpful light on an aspect of Locke’s political theory that has long interested commentators.¹⁵³ If we think of the most important occasion in the life of a Lockean citizen, that vertiginous instant when they have to *know* that the time has come for revolution, the holistic account of agency I have sketched promises to fill the yawning gap that critics have identified in Locke’s

¹⁵¹ Locke, *Two Treatises*, pp. 318-9.

¹⁵² Locke, *Essays*, p. 123.

¹⁵³ See John Dunn, *The Political Thought of John Locke* (Cambridge, 1969); Richard Bourke and Raymond Geuss, eds., *Political Judgement: Essays for John Dunn* (Cambridge, 2009).

account of political judgement. Given that it was the poverty of people's judgement that was the reason for government in the first place, why should Locke, his readers ask, have any faith in the people's capacity to judge it once it has been set up? If, however, we no longer require the heights of rational understanding in order to qualify for moral and political action, then the galloping wave of obscure emotions and collective feeling which brings down a tyrant might meet the standard of virtue. And indeed, Locke points to the raw desperation that constitutes the grounds for legitimate civil disobedience. It will rightly come about, he says, when 'the Inconvenience is so great, that the Majority *feel* it, and are *weary* of it, and find a *necessity* to have it amended.'¹⁵⁴ And when he returns to the subject later on in the text, he reverts to the language of passion and sensation to elucidate that extraordinary moment when power and right passes back to, or infuses, the people, when they transform from citizens back into men, when the mirage of the commonwealth melts back into the state of nature. At that moment, he says, 'they cannot but feel, what they lie under'.¹⁵⁵ Of course, as John Dunn saw, the brilliance of Locke's theory is that it is resolutely bounded by reality, and Locke's acute descriptions of how things *are* can be as depressing as they are revelatory.¹⁵⁶ Just as trust is indispensable to political society, so political calculation is often more brutal, more felt, than deliberated, and the effects of this can be as catastrophic as they can be emancipatory.

Moral and political judgement, then, like moral and political action, turns out to be as much a matter of sense and affect as it is of reason, as much a function of mechanical causation as it is of transcendent freedom. Pufendorf and Locke emerge from this article caught in a kind of metamorphosis, torn between law and nature, between the uncomfortable imposition of duty and organic virtue. As a result of this shifting equivocation, their relation to other figures and discourses shifts accordingly. They appear, for example, both more and less like Hobbes, more and less scholastic – and more and more like Hume and his fellow exponents of a moral sense and a descriptive natural law, whom they are not supposed to resemble at all. The landscape of early-modern moral theory is a space of ambivalence, and tangled, fraying languages that both constrain and are shaken off by its speakers.

¹⁵⁴ Locke, *Two Treatises*, p. 380 (my italics).

¹⁵⁵ Locke, *Two Treatises*, p. 415.

¹⁵⁶ Dunn, 'What is Living and What is Dead in the Political Theory of John Locke?' and 'Trust and Political Agency' in *Interpreting Political Responsibility* (Princeton, 1990), pp. 9-25 and pp. 26-44.